

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 6, 2013

**SENATE BILL**

**No. 55**

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**Introduced by Senator Hill**

~~(Coauthor: Assembly Member Cooley)~~

*(Principal coauthor: Assembly Member Cooley)*

December 28, 2012

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An act to *amend Section 23576 of, and to add and repeal Chapter 5.1 (commencing with Section 23710) to of Division 11.5 of of, the Vehicle Code, relating to ignition interlock devices.*

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as amended, Hill. Ignition interlock devices: repeat driving under the influence offenders.

Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

This bill would, commencing July 1, ~~2014~~, 2015, establish a statutory scheme under which, as a condition of being issued a restricted driver's

license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated for a 2nd or subsequent conviction for ~~a~~ *an alcohol-related* violation of the above offenses, a person would be required to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates, except as provided. The amount of time the ignition interlock device would be required to be installed would be based upon the number of convictions, as prescribed. The bill would require the department, with regard to the installation of an ignition interlock device described above, to notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the ignition interlock device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records. The bill would also require that manufacturers and manufacturer's agents, certified by the department to provide ignition interlock devices, adopt a fee schedule for payment of the costs of the ignition interlock device based on the offender's ability to pay, and would require the court to adopt a similar fee schedule with regard to the fees for the county alcohol and drug problem assessment program. The bill would repeal these provisions on January 1, 2016.

Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program by expanding the scope of that crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 23576 of the Vehicle Code is amended to
- 2     read:
- 3     23576. (a) Notwithstanding Sections 23575 and 23700, or
- 4     Section 23710, if a person is required to operate a motor vehicle

1 in the course and scope of his or her employment and if the vehicle  
2 is owned by the employer, the person may operate that vehicle  
3 without installation of an approved ignition interlock device if the  
4 employer has been notified by the person that the person's driving  
5 privilege has been restricted pursuant to Sections 23575 and 23700,  
6 *or pursuant to Section 23710*, and if the person has proof of that  
7 notification in his or her possession, or if the notice, or a facsimile  
8 copy thereof, is with the vehicle.

9 (b) A motor vehicle owned by a business entity that is all or  
10 partly owned or controlled by a person otherwise subject to  
11 Sections 23575 and 23700, *or Section 23710*, is not a motor vehicle  
12 owned by the employer subject to the exemption in subdivision  
13 (a).

14 **SECTION 1.**

15 *SEC. 2.* Chapter 5.1 (commencing with Section 23710) is added  
16 to Division 11.5 of the Vehicle Code, to read:

17  
18 CHAPTER 5.1. REPEAT OFFENDER IGNITION INTERLOCK DEVICES

19  
20 23710. (a) (1) Notwithstanding any other ~~provision of~~ law,  
21 *and except as provided in Section 23700*, the Department of Motor  
22 Vehicles, upon receipt of the court's abstract conviction for a  
23 violation listed in paragraph (7), shall inform the convicted person  
24 of the requirements of this section, including the term for which  
25 the person is required to have a certified ignition interlock device  
26 installed. The records of the department shall reflect the mandatory  
27 use of the device for the term required and the time when the device  
28 is required to be installed by this code.

29 (2) The department shall advise the person that installation of  
30 an ignition interlock device on a vehicle does not allow the person  
31 to drive without a valid driver's license.

32 (3) Before a driver's license may be issued, reissued, or returned  
33 to a person after a suspension or revocation of that person's driving  
34 privilege that requires the installation of an ignition interlock  
35 device, a person who is notified by the department pursuant to  
36 paragraph (1) shall complete all of the following:

37 (A) Arrange for each vehicle owned or operated by the person  
38 to be fitted with an ignition interlock device by a certified ignition  
39 interlock device provider under Section 13386.

1 (B) Provide the department proof of installation by submitting  
2 the “Verification of Installation” form described in paragraph (2)  
3 of subdivision (g) of Section 13386.

4 (C) Pay the fee, determined by the department, that is sufficient  
5 to cover the reasonable costs of administration of this section.

6 (4) The department shall place a restriction on the driver’s  
7 license record of the convicted person that states the driver is  
8 restricted to driving only vehicles equipped with a certified ignition  
9 interlock device.

10 (5) (A) A person who is notified by the department pursuant  
11 to paragraph (1) shall arrange for each vehicle with an ignition  
12 interlock device to be serviced by the installer at least once every  
13 60 days in order for the installer to recalibrate and monitor the  
14 operation of the device.

15 (B) The installer shall notify the department if the device is  
16 removed or indicates that the person has attempted to remove,  
17 bypass, or tamper with the device, or if the person fails three or  
18 more times to comply with any requirement for the maintenance  
19 or calibration of the ignition interlock device.

20 (6) The department shall monitor the installation and  
21 maintenance of the ignition interlock device installed pursuant to  
22 paragraph (1).

23 (7) A person is required to install an ignition interlock device  
24 for the applicable term as a condition of being issued a restricted  
25 driver’s license, being reissued a driver’s license, or having the  
26 privilege to operate a motor vehicle reinstated subsequent to a  
27 conviction for a violation or a suspension of a person’s driver’s  
28 license, as follows:

29 (A) A person convicted of ~~a~~ *an alcohol-related* violation of  
30 Section 23152 shall be required to install an ignition interlock  
31 device, as follows:

32 (i) Upon a second offense, the person shall install an ignition  
33 interlock device in all vehicles owned or operated by that person  
34 for a mandatory term of 12 months.

35 (ii) Upon a third offense, the person shall install an ignition  
36 interlock device in all vehicles owned or operated by that person  
37 for a mandatory term of 24 months.

38 (iii) Upon a fourth offense or any subsequent violation, the  
39 person shall install an ignition interlock device in all vehicles

1 owned or operated by that person for a mandatory term of 36  
2 months.

3 (B) A person convicted of ~~a~~ *an alcohol-related* violation of  
4 Section 23153 shall install an ignition interlock device, as follows:

5 (i) Upon a second offense, the person shall install an ignition  
6 interlock device in all vehicles owned or operated by that person  
7 for a mandatory term of 24 months.

8 (ii) Upon a third offense, the person shall install an ignition  
9 interlock device in all vehicles owned or operated by that person  
10 for a mandatory term of 36 months.

11 (iii) Upon a fourth offense or any subsequent violation, the  
12 person shall install an ignition interlock device in all vehicles  
13 owned or operated by that person for a mandatory term of 48  
14 months.

15 (C) The terms prescribed in this paragraph shall begin once a  
16 person has provided to the department proof of installation pursuant  
17 to paragraph (2) of subdivision (h) of Section 13386 and upon  
18 restoration of the driving privilege pursuant to Section 13352.

19 (8) A person who is notified by the department, pursuant to this  
20 subdivision, is exempt from the requirements of this subdivision  
21 if within 30 days of the notification, the person certifies to the  
22 department all of the following:

23 (A) The person does not own a vehicle.

24 (B) The person does not have access to a vehicle at his or her  
25 residence.

26 (C) The person no longer has access to the vehicle being driven  
27 by the person at the time he or she was arrested for a violation that  
28 subsequently resulted in a conviction for a violation listed in this  
29 subdivision.

30 (D) The person acknowledges that he or she is only allowed to  
31 drive a vehicle that is fitted with a functioning ignition interlock  
32 device.

33 (E) The person acknowledges that he or she is required to have  
34 a valid driver's license before he or she can drive.

35 (F) The person is subject to the requirements of this section  
36 when he or she purchases or has access to a vehicle.

37 (9) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply  
38 to this section.

39 (10) If a person fails to comply with any of the requirements  
40 regarding ignition interlock devices, the mandatory term for which

1 the ignition interlock device is required to be installed shall be  
2 reset by the department.

3 (b) (1) Every manufacturer and manufacturer's agent certified  
4 by the department to provide ignition interlock devices, under  
5 Section 13386, shall adopt the following fee schedule that provides  
6 for the payment of the costs of the ignition interlock device by  
7 offenders subject to this chapter in amounts commensurate with  
8 that person's income relative to the federal poverty level, as defined  
9 in Section 127400 of the Health and Safety Code:

10 (A) A person with an income at 100 percent of the federal  
11 poverty level and below is responsible for 10 percent of the cost  
12 of the ignition interlock device. The ignition interlock device  
13 provider is responsible for absorbing the cost of the ignition  
14 interlock device that is not paid by the person.

15 (B) A person with an income at 101 to 200 percent of the federal  
16 poverty level is responsible for 25 percent of the cost of the ignition  
17 interlock device. The ignition interlock device provider is  
18 responsible for absorbing the cost of the ignition interlock device  
19 that is not paid by the person.

20 (C) A person with an income at 201 to 300 percent of the federal  
21 poverty level is responsible for 50 percent of the cost of the ignition  
22 interlock device. The ignition interlock device provider is  
23 responsible for absorbing the cost of the ignition interlock device  
24 that is not paid by the person.

25 (D) All other offenders are responsible for 100 percent of the  
26 cost of the ignition interlock device.

27 (2) The cost of the ignition interlock device may only be raised  
28 annually equal to the Consumer Price Index.

29 (3) The offender's income may be verified by presentation of  
30 that person's current federal income tax return or three months of  
31 monthly income statements.

32 (c) This section does not permit a person to drive without a valid  
33 driver's license.

34 (d) The requirements of this section are in addition to any other  
35 requirements of law. A person subject to this section shall comply  
36 with all applicable provisions of Section 13352 before a driver's  
37 license may be issued, reissued, or returned to the person.

38 (e) For the purposes of this section, "vehicle" does not include  
39 a motorcycle until the state certifies an ignition interlock device  
40 that can be installed on a motorcycle. A person subject to an

1 ignition interlock device restriction shall not operate a motorcycle  
2 for the duration of the ignition interlock device restriction period.

3 *(f) The department shall utilize best practices and use*  
4 *information collected from the implementation of the pilot program*  
5 *established pursuant to Section 23700 in implementing this section.*

6 *(g) Personally identifiable information that is obtained by any*  
7 *ignition interlock company pertaining to offenders who are subject*  
8 *to the provisions of this chapter shall not be disclosed, sold, or*  
9 *transferred to any third party, except to provide information that*  
10 *the offender successfully fulfilled or did not successfully fulfill the*  
11 *requirements of this chapter.*

12 ~~(f)~~

13 *(h) This section shall become operative on July 1, ~~2014~~ 2015.*

14 ~~(g)~~

15 *(i) This ~~section~~ chapter shall remain in effect only until January*  
16 *1, 2016, and as of that date is repealed, unless a later enacted*  
17 *statute, that is enacted before January 1, 2016, deletes or extends*  
18 *that date.*

19 ~~SEC. 2.~~

20 *SEC. 3.* No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.